

CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

This document relates to:

THE CITY OF HUNTINGTON,
Plaintiff,

v.

AMERISOURCEBERGEN
DRUG CORPORATION, *et al.*,
Defendants.

CIVIL ACTION NO. 3:17-01362

CABELL COUNTY COMMISSION,
Plaintiff,

v.

AMERISOURCEBERGEN
DRUG CORPORATION, *et al.*
Defendants.

CIVIL ACTION NO. 3:17-01665

Expert Report of Stephenie W. Colston

In re: Opioid Litigation, West Virginia Cases No. 3:17-01362 and 3:17-01665

August 27, 2020

Attachments

Exhibit A: Curriculum Vitae

Exhibit B: Materials Considered

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Subject to Protective Order

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problems continue in this challenged area of the country, but Cabell County/City of Huntington have already made significant strides in pushing back the tide of overdoses and putting into place programs to address SUD.

II. Cabell County and the City of Huntington Have Working Programs Addressing The Opioids Abuse Crisis That Are Primarily Funded Through Federal Grants and Other Sources of Funding.

Despite their challenges, Cabell County and the City of Huntington have developed an impressive operational infrastructure with comprehensive demand and supply responses, which has enabled implementation of an integrated, system-level response to the opioid crises. As a result, Cabell County and the City of Huntington are quite far along in their responses to the opioids abuse crisis and this has resulted in reducing the drug problem. For example, in Cabell and Huntington, overdose calls reached their height in 2017, and then declined by 40.5% from 2017 to 2018.⁹⁴ Similarly, opioid-involved overdose deaths declined between 2017 and 2018, and the presence of prescription opioids in overdose deaths declined from 32 percent of all overdose deaths in 2014 to 10 percent in 2018.⁹⁵ Furthermore, property crimes, violent crimes, and drug-related offenses all declined from 2017 to 2018.⁹⁶ Additionally, according to the Cabell County Prosecutor's Office, drug court cases declined from 2015 to 2018 and plateaued in 2019.⁹⁷

All of these downward trends show that the opioid abuse crisis in Cabell County and the City of Huntington has been and is abating. Cabell and Huntington have gained national recognition as an effective model for successfully tackling the opioid abuse crisis.⁹⁸ The United States Surgeon General and the White House Director of Drug Control Policy, among other government officials, travelled to Huntington to learn how the City's programs could be applied across the nation.⁹⁹

⁹⁴ CCEMS_0051857 (spreadsheet of dispatch calls by year); *see also* Deposition of Jan Rader (Huntington Fire Department Chief), June 17, 2020, at 190:19-23 ("in 2017 – which was our peak year – 24 point like 6 or 7 percent of our calls in general were 3111 [suspected overdose] calls. And it was, I think, down to 12 percent in 2018").

⁹⁵ WV DHHR, *Gov. Justice – DHHR Data Suggests West Virginia Overdose Deaths Appear to be Declining* (Sept. 5, 2019), <https://dhhr.wv.gov/News/Pages/Gov.-Justice---DHHR-Data-Suggests-West-Virginia-Overdose-Deaths-Appear-to-be-Declining.aspx>.

⁹⁶ *See* HUNT_00019409, at 411; *see also* HUNT_00153162 (spreadsheet of total offenses); HUNT_00538488 (State of the City Address, 2020).

⁹⁷ *See* Cabell County Drug Court Listing Report.xlsx, April 24, 2020 (CCPROS_0000002).

⁹⁸ *See* MUSOM News, *Cabell County organizations release Resiliency Plan* (Feb. 7, 2020), <https://jcesom.marshall.edu/news/musom-news/cabell-county-organizations-release-resiliency-plan/>; *see also* MUSOM, Dep't of Family and Community Health, Div. of Addiction Sciences, *Resiliency Plan for Cabell County, West Virginia* (2020) [hereinafter "Cabell County Resiliency Plan"], https://jcesom.marshall.edu/media/58477/2020_cabell-county-resiliency-plan_final.pdf.

⁹⁹ Deposition of Steve Williams, June 30, 2020 ("Williams Dep."), at 249:3-250:24.

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1. The Cabell County Resiliency Plan

The Cabell County Resiliency Plan (“Resiliency Plan”) is the most recent version¹⁰⁰ of the drug abuse response plan (published in January 2020) and prepared by members of the Cabell County and City of Huntington community to address the “substance use crisis” in the County and City.¹⁰¹ The Resiliency Plan itself acknowledges that the drug abuse crisis Cabell County and City of Huntington is facing is not an opioid abuse crisis, but rather a “substance use crisis” caused by “deeply rooted socio-economic and healthcare issues that affect the majority of [the Cabell County and City of Huntington] population.”¹⁰² This is borne out by the sworn testimony of multiple fact witnesses whose depositions were taken in this case.

(a) Provider Participants

The Resiliency Plan, presented to the public as the “plan on how to abate the drug problem in the Cabell County area,”¹⁰³ was developed by over 30 individuals representing 22 organizations throughout the region. Notably, this collaborative effort was led by Marshall University whose involvement and dedication to the problem has been extensive. The Plan does not appear to include all of the area’s SUD/OD treatment providers, with several providers not listed as identifiable participants; these additional resources however have clearly contributed to the achievements reached in the region and are more thoroughly discussed later in this report.

(b) Existing Services

The plan provides additional evidence that existing response programs, including those discussed in this report,¹⁰⁴ are extensive and are appropriately funded. The plan lists 11 short-term responses, many of which are designed to increase the capacities of existing services—prevention, harm

¹⁰⁰ Cabell County/City of Huntington developed two earlier versions of their response plans, starting in 2015. See *Combating the Opioid Crisis: Prevention and Public Health Solutions*, Hearing before the Health Subcomm. of the H.R. Energy and Commerce Comm. (Mar. 22, 2018) (Statement of Michael E. Kilkenny, MD, MS, Physician Dir., Cabell-Huntington Health Dep’t), <http://docs.house.gov/meetings/IF/IF14/20180321/108049/HHRG-115-IF14-Wstate-KilkennyM-20180321.pdf> (discussing comprehensive opioid response plan put in place by Huntington leaders in 2015); City of Huntington, Mayor’s Office of Drug Control Policy (“MODCP”), *Two-Year Strategic Plan for Addressing the Opioid Crisis in the City of Huntington/ Cabell and Wayne Counties, West Virginia*, at 1 (May 2017) [hereinafter “MODCP 2017 Strategic Plan”], https://www.opioidlibrary.org/wp-content/uploads/2019/08/MODCP_two_year_plan_May_2017.pdf; see also August 8, 2019 Draft Resiliency Plan at (CEMS_0023359).

¹⁰¹ Implementation of the plan is to be coordinated by an Addiction Sciences Institute, which “would feature state-of-the-art research facilities, a center for education, and offices for representatives of community stakeholders and partners.” MUSOM, *Cabell County organizations release Resiliency Plan* (2020), <https://jcesom.marshall.edu/news/musom-news/cabell-county-organizations-release-resiliency-plan/>. The Institute received \$4,083,001 in grants between March 2018 and May 2020, such that the Institute had a \$1,103,191 surplus. See Exhibit 4 to Deposition of Lyn O’Connell, July 31, 2020 (“O’Connell Dep.”), Addiction Sciences Income Statement from March 2018 through May 2020.

¹⁰² Cabell County Resiliency Plan at 7, https://jcesom.marshall.edu/media/58477/2020_cabell-county-resiliency-plan_final.pdf.

¹⁰³ Courtney Hessler, *Attorney seeking \$500M for Cabell County outlines plan to use funds*, THE HERALD-DISPATCH (Oct. 27, 2019), https://www.wvgazettemail.com/news/health/attorney-seeking-500m-for-cabell-county-outlines-plan-to-usefunds/article_9f3da390-6166-5857-bdbe-4bd1b8fe71f4.html.

¹⁰⁴ See Deposition of Crystal Welch, July 8, 2020 (“Welch Dep.”), Exhibit 4, Presentation entitled “Tackling the Opioid Epidemic, Health Connections” (outlining various programs and services in place).

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reduction, treatment, and recovery support services. Even though there are no capacity numbers from which to project future capacity, these recommendations nevertheless appear to be focused on increasing what is already there. Available state data indicates that, with the exception of a long-standing abstinence-based residential program and an Opioid Treatment Program located in the City of Huntington (funded by Medicare), limited waiting list information or utilization data is provided to substantiate the need for additional residential and outpatient MAT services.¹⁰⁵ Residential and outpatient MAT treatment capacity were substantially increased as a result of the infusion of federal and state funding to respond to the opioid abuse crises, and the plan documents that Cabell County already has “comprehensive harm reduction services” in place. In sum, there is no way to quantify how further expansion will improve/enhance current efforts, which have been effective in addressing the crisis and have already been substantially enhanced with Federal funding over the past several years.

2. *The City of Solutions, Huntington West Virginia: A Guide to What Works and What Does Not*

The “City of Solutions”¹⁰⁶ Guidebook’s purpose is to document the City of Huntington’s “road to recovery” as a guide for other communities attempting to reduce the harms from substance use. It is relevant for this report because it describes in detail the response programs already in place, as discussed at length below, and describes future needs. It should be noted that the future needs in the guide are aligned with the recommendations in the Resiliency Plan; because the document has a different purpose, the future needs are more broadly stated, with specific rationales as back up.

The Guide also provides strong evidence that existing response programs have expanded the City of Huntington’s continuum of SUD/ODU services and that funding has been relevant and appropriate.

First, the Guidebook lists seven new prevention and early intervention programs funded as a result of the millions of dollars flowing into Cabell County/City of Huntington to response to the opioids abuse crisis. These include well-funded projects, which provide:

- integrated primary and SUD care to screen and engage persons presenting at Huntington’s two largest hospitals,
- a system of care approach to coordinate all interventions,
- faith initiatives;

¹⁰⁵ See, e.g., Cabell County Resiliency Plan, https://jcesom.marshall.edu/media/58477/2020_cabell-county-resiliency-plan_final.pdf.

¹⁰⁶ As the MODCP has stated, “There is no shortage of efforts and resources attempting to wrestle this beast to the ground. Every group involved—from law enforcement to social service agencies, neighborhood groups, faith groups, and local, state, and federal agencies—is committed to achieving a common goal: the eradication of addiction and trafficking of illegal drugs.” MODCP 2017 Strategic Plan at ii. It has “created a dialogue that stretches from Huntington’s City Hall to the West Virginia State Capitol, the halls of Congress, and the White House.” *Id.* Huntington thus proclaims itself as a “City of Solutions” in combatting the opioid problem. See City of Solutions Guidebook at 7 (HUNT_00365846, at 852).

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- law enforcement diversion efforts
- drug court enhancements
- harm reduction efforts;
- quick response teams; and
- school-based prevention.

Second, the Guidebook documents new residential and outpatient treatment programs, an innovative triage/assessment/referral and outpatient practice model to increase engagement and access to treatment, increased outpatient MAT capacity, and new neonatal outpatient, 24-hour, and recovery support services.

Third, the Guidebook documents three new recovery support efforts, including an innovative care pathway program using family navigators to assist women in recovery and their babies with wrap-around services designed to maintain and support their recovery, an employment program for individuals in recovery, and a substantial increase in peer recovery specialists. The Guide provides clear information as to how future response programs will strategically augment the substantial efforts to date (as well as the funding already provided to put these programs into place).

Both the Resiliency Plan and the City of Solutions Guidebook document how Cabell County/City of Huntington have substantially increased the availability of OUD services provided to individuals no matter how or where they present—as overdose victims, in a hospital emergency room, at a residential treatment program, at an outpatient MAT program, at a withdrawal management program, at a social event, or at school. The Plan and the Guide further acknowledge and substantiate that the crisis facing Cabell County/City of Huntington today has shifted over the past 10 years (away from prescription opioids) and will, most likely, shift many times more over the years to come.

III. Tens of Millions of Dollars Are Being Spent to Respond to the Opioid Abuse Crisis in Cabell and Huntington from Public and Private Funding Sources

Tens of millions of dollars are being spent in Cabell County and the City of Huntington from public and private funding sources to strategically enhance the continuum of SUD/ODU prevention, treatment, and recovery infrastructure and its criminal justice infrastructure, as discussed throughout this report. The City and County have aggressively pursued grant funding for treatment and other response programs and have not used any county general funds or budget surpluses to pay for the opioid abuse crisis.¹⁰⁷ Federal funding for treatment and related services for opioid and substance use disorders has in fact increased over the last four years,¹⁰⁸ and the state has actively allocated funds directly to addressing opioid abuse. In 2019, the Bipartisan Policy center released a report on federal opioid spending by the states, and reported that federal opioid

¹⁰⁷ Williams Dep. at 209:13-211:21, 277:16-278:5.

¹⁰⁸ O’Connell Dep. at 68:22-69:4.